

FILED

August 17 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 10-0126

FILED

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Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

STATE OF MONTANA,

Plaintiff and Appellee,

v.

SCOTT RICHARD ALBRIGHT,

Defendant and Appellant.

ORDER

The Appellant's opening brief was filed on June 7, 2010. In that brief, Appellant Albright has raised two arguments, under both of which he argues he is entitled to a new trial. The State of Montana has now filed notice conceding that, under Albright's first argument on appeal, the controlling precedent of *State v. Lambert*, 280 Mont. 231, 236-37, 929 P.2d 846, 849-50 (1996), requires that the judgment entered against Albright be reversed and that this case be remanded for a new trial.

THEREFORE IT IS ORDERED that the Eighteenth Judicial District Court's judgment in this matter is REVERSED and this case is REMANDED for a new trial.

The Clerk is directed to provide copies of this Order to all counsel of record.

DATED this 17th day of August, 2010.

Chief Justice

Michael G. Healy

William J. Ruppert

Patricia Cotter

Brian J. Williams

Justices